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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,295	08/03/2000	Jay S. Walker	96-200X	1956

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EXAMINER

WEISBERGER, RICHARD C

ART UNIT PAPER NUMBER

3624

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/632,295	Applicant(s) WALKER ET AL.	
	Examiner Richard C Weisberger	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60 and 73-121 is/are pending in the application.
 4a) Of the above claim(s) 93-95 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 60,73-81,88,90,96-103,105,111 and 115-121 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 82-87,89,91-92, 104,106-110 and 112-114 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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1. In view of the *appeal brief filed on 1/14/2005, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) Initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

2. The following election of species was previously required. The groups consisted of (1) a method for transmitting a request for a line of credit; (2) a method of generating information about a customer; (3) a method of creating a data record; (4) a method of transmitting an amount of credit for a customer; (5) a method of receiving a reservation for future services, (6) a method of providing an incentive to a customer; (7) a method of guaranteeing an excess line of credit. The election of species was pursuant to 35 U.S.C. 121 and required an election of a single disclosed species for prosecution on the merits to which the claims

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shall be restricted if no generic claim is finally held to be allowable. Currently, claim 60 is generic.

3. Applicant's election with traverse of group I in the reply filed on 1/14/2005 is acknowledged. The traversal is on the ground(s) that species are not distinct. This is not found persuasive because the species are distinct. When two or more species are claimed, an election of species is proper if the species are mutually exclusive. Mutually exclusivity is defined in MPEP 806.04(f). The species set forth satisfy this definition of mutual exclusivity.

The requirement is still deemed proper and is therefore made FINAL.

4. This application contains claims 83-95 are drawn to an invention nonelected by original presentation in paper mailed 08/01/03. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 60, 88, 90, 96-101, 105, 111 rejected under 35 U.S.C. 102(b) as being anticipated by Spivak, "Instant Money".

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Spivak teaches a method of obtaining credit for a customer that anticipates claims 60,96,97,98,99,100,105 See, paragraphs 12 and 13, particularly the card recipient receiving an unsolicited credit card at some predetermined mail box location. Moreover, the card came with instruction indicating stores to which the card would be accepted. The examiner interprets the activation step to read on a purchase using the card. The transmission of the information of the purchase to the credit card issuer is inherent to this process.

7. Claims 60 rejected under 35 U.S.C. 102(a) as being anticipated by Private Onecl, Sample Business Contracts.

The examiner takes official notice that the teaching relied upon in the cited reference was known at least one year prior to the effective filing date of this application. The document teaches of private label credit card practice and that it is well known for stores to issue instant credit to customers while the customer is at the store location, obtaining a line of credit, offering the line of credit and activating the line of credit all at the store location. Moreover, conventional business practice includes quick credit, a process where a customer requests credit while at the store location and is expected back at the same store location in some period of time. (Document, page 11) The examiner takes official notice that he has personally applied for store credit and the wait time period was a function of the communication technology in place. Typical approval times varied

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from minutes to hours and I typically left and returned to the credit department during this time.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 73-81,102 and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spivak.

As for claims 73-78, the prior art fails to teach of activating the card at the predetermined location. The examiner takes official notice that for fraud-security reasons, it is normal business practice for credit card issuers to send credit cards unactivated. Current practice requires a telephone call to confirm and activate the card. It would have been obvious for one skilled in the art at the time to have combined these teachings as motivated by the need to enhance the fraud security of the unsolicited card. As for claims 79-81,102,103, the examiner takes official notice that it is routine for credit cards holder to transmit requests for lines of credit and/or additional or replacement credit cards. It would have been obvious for one skilled in the art to add this feature to the credit card of the primary reference as motivated by common business practices. As for claims 73,

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the examiner takes official notice that it is routine for merchants to receive a reservation for future services from credit card holders. It would have been obvious for one skilled in the art to have used the credit card for this purpose as motivated by conventional business practices.

10. Claims 115-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onecler (previously cited).

As for claim limitations in claims 115-121, not expressly taught, the examiner takes official notice that the teaching relied upon in the cited reference was known at least one year prior to the effective filing date of this application. The document teaches of private label credit card practice and that it is well known for stores to issue instant credit to customers while the customer is at the store location, obtaining a line of credit, offering the line of credit and activating the line of credit all at the store location. It would have been obvious for a merchant skilled in the art, (e.g., a retailer, a hotel, a furniture repair shop) to have used a private label credit card like that described in the primary reference as motivated by the need to increase customer loyalty and increase sales.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached during the hours of Maxiflex.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vince Milling can be reached on 571 272 6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard C Weisberger
Primary Examiner
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